

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

SENATE ENROLLED ACT No. 518

AN ACT to amend the Indiana Code concerning protection orders.

Be it enacted by the General Assembly of the State of Indiana:

SECTION 1. IC 5-2-5-1, AS AMENDED BY P.L.24-2000, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. The following definitions apply throughout this chapter:

(1) "Limited criminal history" means information with respect to any arrest, indictment, information, or other formal criminal charge, which must include a disposition. However, information about any arrest, indictment, information, or other formal criminal charge which occurred less than one (1) year before the date of a request shall be considered a limited criminal history even if no disposition has been entered.

(2) "Bias crime" means an offense in which the person who committed the offense knowingly or intentionally:

(A) selected the person who was injured; or

(B) damaged or otherwise affected property;

by the offense because of the color, creed, disability, national origin, race, religion, or sexual orientation of the injured person or of the owner or occupant of the affected property or because the injured person or owner or occupant of the affected property was associated with any other recognizable group or affiliation.

(3) "Council" means the security and privacy council created under section 11 of this chapter.



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(4) "Criminal history data" means information collected by criminal justice agencies, the United States Department of Justice for the department's information system, or individuals. The term consists of the following:

(A) Identifiable descriptions and notations of arrests, indictments, informations, or other formal criminal charges.

(B) Information regarding an offender (as defined in IC 5-2-12-4) obtained through sex offender registration under IC 5-2-12.

(C) Any disposition, including sentencing, and correctional system intake, transfer, and release.

(5) "Criminal justice agency" means any agency or department of any level of government whose principal function is the apprehension, prosecution, adjudication, incarceration, probation, rehabilitation, or representation of criminal offenders, the location of parents with child support obligations under 42 U.S.C. 653, the licensing and regulating of riverboat gambling operations, or the licensing and regulating of pari-mutuel horse racing operations. The term includes the Medicaid fraud control unit for the purpose of investigating offenses involving Medicaid. The term includes a nongovernmental entity that performs as its principal function the:

(A) apprehension, prosecution, adjudication, incarceration, or rehabilitation of criminal offenders;

(B) location of parents with child support obligations under 42 U.S.C. 653;

(C) licensing and regulating of riverboat gambling operations; or

(D) licensing and regulating of pari-mutuel horse racing operations;

under a contract with an agency or department of any level of government.

(6) "Department" means the state police department.

(7) "Disposition" means information disclosing that criminal proceedings have been concluded or indefinitely postponed.

(8) "Foreign protection order" has the meaning set forth in IC 34-6-2-48.5.

(9) "Indiana order" has the meaning set forth in IC 5-2-9-2.1.

~~(8)~~ **(10) "Inspection" means visual perusal and includes the right to make memoranda abstracts of the information.**

~~(9)~~ **(11) "Institute" means the Indiana criminal justice institute established under IC 5-2-6.**

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~~(10)~~ **(12)** "Law enforcement agency" means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders.

~~(11)~~ "Protective order" has the meaning set forth in IC 5-2-9-2.1.

~~(12)~~ **(13)** "Release" means the furnishing of a copy, or an edited copy, of criminal history data.

~~(13)~~ **(14)** "Reportable offenses" means all felonies and those Class A misdemeanors which the superintendent may designate.

~~(14)~~ **(15)** "Request" means the asking for release or inspection of a limited criminal history by noncriminal justice organizations or individuals in a manner which:

(A) reasonably ensures the identification of the subject of the inquiry; and

(B) contains a statement of the purpose for which the information is requested.

~~(15)~~ **(16)** "Unidentified person" means a deceased or mentally incapacitated person whose identity is unknown.

SECTION 2. IC 5-2-5-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 12. (a) On a daily basis, all law enforcement agencies shall enter into the Indiana data and communication system (IDACS) computer the following:

(1) All information concerning stolen or recovered property, including:

(A) motor vehicles;

(B) firearms;

(C) securities;

(D) boats;

(E) license plates; and

(F) other stolen or recovered property.

(2) All information concerning fugitives charged with a crime, including information concerning extradition.

(3) All information concerning runaways, missing and unidentified persons, and missing children (as defined in IC 10-1-7-2), including information concerning the release of such persons to the custody of a parent or guardian.

(4) Information contained in a ~~protective~~ **an Indiana** order, including any modifications or extensions issued by a court and filed with a law enforcement agency as required in IC 5-2-9-6(f).

(5) Information contained in a foreign protection order, including any modifications or extensions issued by a tribunal and filed with a law enforcement agency as required in IC 5-2-9-6.3.



(b) On a daily basis, all law enforcement agencies shall:

- (1) enter all information concerning missing children (as defined in IC 10-1-7-2) into the National Crime Information Center's Missing Person File;
- (2) enter into the National Crime Information Center's Wanted Person File all information concerning warrants issued for a person who allegedly abducted or unlawfully retained a missing child; and
- (3) enter all information concerning unidentified persons into the National Crime Information Center's Unidentified Person File.

(c) If a ~~protective~~ **an Indiana order or a foreign protection order** is removed from a depository established under IC 5-2-9, the law enforcement agency responsible for the depository shall delete the information entered under subsection (a)(4) **or (a)(5)** from the Indiana data and communication system (IDACS) computer.

SECTION 3. IC 5-2-9-1.3 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 1.3. As used in this chapter, "county clerk" refers to the clerk of the circuit court.**

SECTION 4. IC 5-2-9-1.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 1.5. As used in this chapter, "foreign protection order" has the meaning set forth in IC 34-6-2-48.5.**

SECTION 5. IC 5-2-9-1.6 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 1.6. As used in this chapter, "tribunal" has the meaning set forth in IC 34-6-2-144.2.**

SECTION 6. IC 5-2-9-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 2.1. (a) As used in this chapter, "Indiana order" means:**

- (1) a protective order issued under:
 - (A) IC 34-26-2-12(1)(A) (or IC 34-4-5.1-5(a)(1)(A) before its repeal);
 - (B) IC 34-26-2-12(1)(B) (or IC 34-4-5.1-5(a)(1)(B) before its repeal); or
 - (C) IC 34-26-2-12(1)(C) (or IC 34-4-5.1-5(a)(1)(C) before its repeal);

that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

- (2) an emergency protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2), or IC 34-26-2-6(3) (or IC 34-4-5.1-2.3(a)(1)(A), IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their

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repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(3) a temporary restraining order issued under IC 31-15-4-3(2) **or** IC 31-15-4-3(3) **(or** IC 31-16-4-2(a)(2), **or** IC 31-16-4-2(a)(3), **for** IC 31-1-11.5-7(b)(2), or IC 31-1-11.5-7(b)(3) before their repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(4) a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders a person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(5) an order issued as a condition of pretrial release, **including release on bail or personal recognizance**, or pretrial diversion, that orders a person to refrain from any direct or indirect contact with another person;

(6) an order issued as a condition of probation that orders a person to refrain from any direct or indirect contact with another person;

(7) a protective order issued under IC 31-15-5 **or IC 31-16-5** (or IC 31-1-11.5-8.2 **or IC 31-16-5** before ~~its~~ **their** repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(8) a protective order issued under IC 31-14-16 in a paternity action that orders the respondent to refrain from having direct or indirect contact with another person; **or**

(9) a protective order issued under IC 31-34-17 in a child in need of services proceeding or under IC 31-37-16 in a juvenile delinquency proceeding that orders the respondent to refrain from having direct or indirect contact with a child; **or**

(10) an order issued by a court in Indiana under IC 34-26-2.5-4 to enforce a foreign protection order.

(b) Whenever an **Indiana** order is issued, the **Indiana** order must be captioned in a manner that indicates the type of order issued and the section of the Indiana Code that authorizes the protective order.

SECTION 7. IC 5-2-9-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. A depository is established in the office of each sheriff and law enforcement agency in Indiana for the purpose of collecting, maintaining, and retaining the following:

(1) ~~protective Indiana orders. issued under IC 34-26-2 (or IC 34-4-5.1 before its repeal) to prevent abuse of a person.~~

(2) ~~A dispositional decree issued under IC 31-34-20-1;~~



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IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an injunction issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that requires a person to refrain from direct or indirect contact with a child in need of services or a delinquent child:

(3) Temporary restraining orders issued under IC 31-15-4-3(2); IC 31-15-4-3(3); IC 31-16-4-2(a)(2); or IC 31-16-4-2(a)(3) (or IC 31-1-11.5-7(b)(2); or IC 31-1-11.5-7(b)(3) before their repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner.

(4) Orders issued as a condition of pretrial release or pretrial diversion that require a person to refrain from any direct or indirect contact with another person.

(5) Orders issued as a condition of probation that require a person to refrain from any direct or indirect contact with another person.

(6) Permanent protective orders issued under IC 31-15-5 or IC 31-16-5 (or IC 31-1-11.5-8.2 before its repeal) that order the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner.

(2) Foreign protection orders.

SECTION 8. IC 5-2-9-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) The clerk of a court that issues an **Indiana** order shall provide a copy of the **Indiana** order to the following:

- (1) Each party.
- (2) A law enforcement agency of the municipality in which the person protected by the **Indiana** order resides.
- (3) If the person protected by the **Indiana** order does not reside in a municipality, the sheriff of the county in which the protected person resides.

(b) The clerk of a court that issues an **Indiana** order or the clerk of a court in which a petition is filed shall:

- (1) maintain a confidential file to secure any confidential information about a protected person designated on **any a uniform statewide** form prescribed **or approved** by the division of state court administration; and
- (2) provide a copy of the confidential form that accompanies the **Indiana** order to the following:

(A) The sheriff of the county in which the **Indiana** order was issued.

(B) The law enforcement agency of the municipality, if any, in which the protected person resides.



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- (C) Any other sheriff or law enforcement agency designated in the **Indiana** order that has jurisdiction over the area in which a protected person may be located or protected.
- (c) A sheriff or law enforcement agency that receives an **Indiana** order under subsection (a) and a confidential form under subsection (b) shall:
- (1) maintain a copy of the **Indiana** order in the depository established under this chapter;
 - (2) enter:
 - (A) the date and time the sheriff or law enforcement agency receives the **Indiana** order;
 - (B) the location of the person who is subject to the **Indiana** order, **if reasonably ascertainable from the information received;**
 - (C) the name and identification number of the officer who serves the **Indiana** order; ~~and~~
 - (D) the manner in which the **Indiana** order is served;
 - (E) the name of the petitioner and any other protected parties;**
 - (F) the name, Social Security number, date of birth, and physical description of each person who is the subject of the Indiana order, if reasonably ascertainable from the information received;**
 - (G) the date the Indiana order expires;**
 - (H) a caution indicator stating whether a person who is the subject of the Indiana order is believed to be armed and dangerous, if reasonably ascertainable from the information received; and**
 - (I) if furnished, a Brady record indicator stating whether a person who is the subject of the Indiana order is prohibited from purchasing or possessing a firearm under federal law, if reasonably ascertainable from the information received;**
- on the copy of the **Indiana** order or the confidential form; and
- (3) establish a confidential file in which a confidential form that contains information concerning a protected person is kept.
- (d) An **Indiana** order may be removed from the depository established under this chapter only if the sheriff or law enforcement agency that administers the depository receives:
- (1) a notice of termination on a form prescribed or approved by the division of state court administration;
 - (2) an order of the court; or

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(3) a notice of termination and an order of the court.

(e) If an **Indiana** order in a depository established under this chapter is terminated, ~~or expires~~, the person who obtained the protective order must file a notice of termination on a form prescribed or approved by the division of state court administration with the clerk of the court. The clerk of the court shall provide a copy of the notice of termination ~~or of an Indiana~~ order to each of the depositories to which the **Indiana** order and a confidential form were sent. The clerk of the court shall maintain the notice of termination in the court's file.

(f) If an **Indiana** order or form in a depository established under this chapter is extended or modified, the person who obtained the extension or modification must file a notice of extension or modification on a form prescribed or approved by the division of state court administration with the clerk of the court. The clerk of the court shall provide a copy of the notice of extension or modification ~~or of an Indiana~~ order to each of the depositories to which the **Indiana** order and a confidential form were sent. The clerk of the court shall maintain the notice of extension or modification **of an Indiana order** in the court's file.

(g) The clerk of a court that issued an order terminating an **Indiana order that is an** emergency protective order shall provide a copy of the **Indiana** order to the following:

- (1) Each party.
- (2) The law enforcement agency provided with a copy of the ~~emergency protective Indiana~~ order under subsection (a).

SECTION 9. IC 5-2-9-6.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 6.3. (a) A county clerk that accepts a foreign protection order for filing under IC 34-26-2.5-12 shall provide a copy of the foreign protection order to the following:**

- (1) The person filing the foreign protection order.
- (2) A law enforcement agency of the municipality in which the person protected by the foreign protection order resides.
- (3) If the person protected by the foreign protection order does not reside in a municipality, the sheriff of the county in which the protected person resides.

(b) A county clerk that accepts a foreign protection order for filing under IC 34-26-2.5-12 shall:

- (1) maintain a confidential file to secure any confidential information about a protected person designated on a uniform statewide form prescribed by the division of state court administration; and



(2) provide a copy of the confidential form that accompanies the foreign protection order to the following:

(A) The sheriff of the county where the county clerk maintains the county clerk's principal office.

(B) The law enforcement agency of the municipality, if any, in which the protected person resides.

(C) Any other sheriff or law enforcement agency that the county clerk has reason to believe has jurisdiction over the area in which a protected person may be located or protected.

(c) A sheriff or law enforcement agency that receives a foreign protection order under subsection (a) and a confidential form under subsection (b) shall:

(1) maintain a copy of the foreign protection order in the depository established under this chapter;

(2) enter:

(A) the name of the petitioner and any other protected parties;

(B) the date and time the sheriff or law enforcement agency received the foreign protection order;

(C) the location of each person who is the subject of the foreign protection order, if reasonably ascertainable from the information received;

(D) the date the foreign protection order expires;

(E) the tribunal and contact information, including the name and telephone number of the presiding officer or clerk of the issuing tribunal, if reasonably ascertainable from the information received;

(F) the name, Social Security number, date of birth, and physical description of each person who is the subject of the foreign protection order, if reasonably ascertainable from the information received;

(G) a caution indicator stating whether a person who is the subject of the foreign protection order is believed to be armed and dangerous, if reasonably ascertainable from the information received;

(H) if furnished, a Brady record indicator stating whether a person who is the subject of the foreign protection order is prohibited from purchasing or possessing a firearm under federal law, if reasonably ascertainable from the information received;

(I) the name and identification number of the officer who

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serves a foreign protection order, if reasonably ascertainable from the information received; and

(J) the manner in which the foreign protection order is served, if reasonably ascertainable from the information received;

on the copy of the foreign protection order or the confidential form; and

(3) establish a confidential file in which a confidential form that contains information concerning a protected person is kept.

(d) A foreign protection order may be removed from the depository established under this chapter only if the sheriff or law enforcement agency that administers the depository receives:

(1) a notice of termination on a form prescribed or approved by the division of state court administration;

(2) an order of the tribunal issuing the foreign protection order; or

(3) a notice of termination and an order of a tribunal issuing the protection order.

(e) If a foreign protection order in a depository established under this chapter is terminated, the person who obtained the protective order must file a notice of termination on a form prescribed or approved by the division of state court administration with the county clerk where the foreign protection order was filed. The county clerk shall provide a copy of the notice of termination of a foreign protection order or order of a tribunal to each of the depositories to which the foreign protection order and a confidential form were sent. The county clerk shall maintain the notice of termination in the court's file.

(f) If a foreign protection order or form in a depository established under this chapter is extended or modified, the person who obtained the extension or modification must file a notice of extension or modification on a form prescribed or approved by the division of state court administration with the county clerk where the foreign protection order was filed. The county clerk shall provide a copy of the notice of extension or modification of a foreign protection order or order of a tribunal to each of the depositories to which the Indiana order and a confidential form were sent. The county clerk shall maintain the notice of extension or modification of a foreign protection order in the court's file.

SECTION 10. IC 5-2-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7. (a) Any information:

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- (1) in a **uniform statewide** confidential form or any part of a confidential form prescribed ~~or approved~~ by the division of state court administration that must be filed with an **Indiana order or a foreign protection order**; or
 - (2) otherwise acquired concerning a protected person;
- is confidential and may not be divulged to any respondent or defendant.
- (b) Information described in subsection (a) may only be used by:
 - (1) a court;
 - (2) a sheriff;
 - (3) another law enforcement agency;
 - (4) a prosecuting attorney; or
 - (5) a court clerk;

to comply with a law concerning the distribution of the information.

SECTION 11. IC 5-2-9-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. A law enforcement agency that receives a copy of an **Indiana order or a foreign protection order** shall enter the information received into the Indiana data and communication system (IDACS) computer under IC 5-2-5-12.

SECTION 12. IC 16-18-2-307.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 307.5. "**Rape crisis center**", for purposes of IC 16-19-13-6, has the meaning set forth in IC 16-19-13-6(a).

SECTION 13. IC 16-19-13-6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 6. (a) As used in this section, "**rape crisis center**" means an organization that provides a full continuum of services, including hotlines, victim advocacy, and supportive services, from the onset of need for services through the completion of healing, to victims of sexual assault.

(b) The sexual assault victims assistance fund is established. The office shall administer the fund to provide financial assistance to rape crisis centers. Money in the fund must be distributed to a statewide nonprofit corporation whose primary purpose is pursuing the eradication of sexual violence in Indiana. The nonprofit corporation shall allocate money in the fund among the rape crisis centers. The fund consists of:

- (1) amounts transferred to the fund under sexual assault victims assistance fees collected under IC 33-19-6-21.
- (2) any appropriations to the fund from other sources;
- (3) grants, gifts, and donations intended for deposit in the fund; and



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(4) interest that accrues from money in the fund.

(c) The expenses of administering the fund shall be paid from money in the fund. The office shall designate not more than ten percent (10%) of the appropriation made each year to the nonprofit corporation for program administration.

(d) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(e) Money in the fund at the end of a state fiscal year does not revert to the state general fund.

SECTION 14. IC 33-11.6-4-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. The small claims court shall have no jurisdiction in actions seeking injunctive relief or involving partition of real estate, or to declare or enforce any lien thereon except as provided in section 13 of this chapter, and shall have no jurisdiction in cases in which the appointment of a receiver is asked, or in suits for dissolution or annulment of marriage. ~~However, the court has jurisdiction to hear petitions filed under IC 34-26-2 (or IC 34-4-5.1 before its repeal).~~

SECTION 15. IC 33-11.6-4-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15. (a) The costs consist of:

- (1) a township docket fee equal to five dollars (\$5) plus forty-five percent (45%) of the infraction or ordinance violation costs fee under IC 33-19-5-2;
- (2) bailiff's service of process by registered or certified mail fee of ~~six~~ **thirteen** dollars (~~\$6~~) (**\$13**) for each service;
- (3) the cost for the personal service of process by the bailiff or other process server in the amount of ~~eight~~ **thirteen** dollars (~~\$8~~) (**\$13**) for each service; ~~with the exception that personal service to execute a warrant for a protective order under IC 34-26-2 (or IC 34-4-5.1 before its repeal) shall cost a fee of twelve dollars (\$12) and writs of restitution and writs of replevin shall cost a fee of twelve dollars (\$12);~~
- (4) witness fees, if any, in the amount provided by IC 33-19-1-6 to be taxed and charged in the circuit court of the county; and
- (5) a redocketing fee, if any, of five dollars (\$5).

The docket fee and the cost for the initial service of process shall be paid upon the institution of each case. The cost of service rendered subsequent to the initial service shall be assessed and paid after such service has been made, and the cost of witness fees shall be paid before the witnesses are called.



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(b) If the amount of the township docket fee computed under subsection (a)(1) is not equal to a whole number, the amount shall be rounded to the next highest whole number.

SECTION 16. IC 33-17-1-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) The clerk shall provide each person filing a petition for the issuance of a protective order under IC 34-26-2 without the assistance of an attorney the following information:

- (1) The procedure for obtaining a protective order.
- (2) When a protective order becomes effective.
- (3) Procedures to follow when a protective order is violated.
- (4) Information concerning the waiver of fees under IC 33-19-4.5.**

(b) The information required under subsection (a) must be printed in a manner that can be easily understood by a person who is not an attorney.

(c) The attorney general shall develop an appropriate form to provide the information referred to in subsection (a).

SECTION 17. IC 33-19-4.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 4.5. Costs Related to Orders to Protect a Person From Dating Violence, Domestic Violence, Sexual Assault, or Stalking

Sec. 1. This chapter applies to a person who files a motion, petition, or complaint with a court seeking a protective order or an order to enforce a foreign protection order to protect the person from any of the following:

- (1) Dating Violence.**
- (2) Domestic violence.**
- (3) Sexual assault.**
- (4) Stalking.**

Sec. 2. As used in this chapter, "dating violence" has the meaning set forth in 42 U.S.C. 3796gg-2.

Sec. 3. (a) As used in this chapter, "domestic violence" has the meaning set forth in 42 U.S.C. 3796gg-2.

Sec. 4. As used in this chapter, "foreign protection order" has the meaning set forth in IC 34-6-2-48.5.

Sec. 5. As used in this chapter, "Indian tribe" has the meaning set forth in IC 34-6-2-66.7.

Sec. 6. (a) As used in this chapter, "protective order" has the meaning set forth for "protection order" in IC 34-6-2-121.6.

Sec. 7. As used in this chapter, "sexual assault" means conduct

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that constitutes:

- (1) a misdemeanor or felony under IC 35-42-4 (sex crimes) or IC 35-46-1-3 (incest);
- (2) a misdemeanor or felony under the laws of the United States, a state, or an Indian tribe that is substantially similar to an offense described in subdivision (1); or
- (3) an attempt to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or the person who engages in the conduct is an adult.

Sec. 8. As used in this chapter, "stalking" means conduct that constitutes:

- (1) IC 35-45-10-5 (stalking);
- (2) a misdemeanor or felony under the laws of the United States, a state, or an Indian tribe that is substantially similar to an offense described in subdivision (1); or
- (3) an attempt to engage in conduct described in subdivision (1) or (2);

regardless of whether the conduct results in criminal prosecution or the person who engages in the conduct is an adult.

Sec. 9. Notwithstanding any other law, the clerk may not collect a fee or other reimbursement for the filing, issuance, registration, or service of any of the following:

- (1) A warrant related to an action for a protective order or to enforce a foreign protection order.
- (2) A motion, petition, or complaint for a protective order or to enforce a foreign protection order.
- (3) A protective order or an order enforcing a foreign protection order.
- (4) A witness subpoena related to an action for a protective order or to enforce a foreign protection order.

If a person seeks a protective order or an order enforcing a foreign protection order as part of another proceeding, the clerk may not collect a separate fee or reimbursement for the filing, issuance, registration, or service of the papers described in subdivisions (1) through (4).

Sec. 10. Prepayment of costs described in section 9 of this chapter are not required if the person, or a person acting on the person's behalf, alleges under oath or affirmation in the motion, petition, or complaint seeking the protective order or order enforcing a foreign protection order that the person is or fears that the person will be a victim of dating violence, domestic violence,



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sexual assault, or stalking.

Sec. 11. Unless the court determines that a request for a protective order or the enforcement of a foreign protection order is frivolous, fraudulent, or groundless, the court shall waive the obligation that the person seeking the protective order or order enforcing a foreign protection order would otherwise have to pay the costs described in section 9 of this chapter if:

- (1) the person, or another person acting on the person's behalf, makes the allegations described in section 10 of this chapter; or**
- (2) the court otherwise determines that the person is a person seeking protection from dating violence, domestic violence, sexual assault, or stalking.**

Sec. 12. This chapter does not prevent the collecting of costs from a party against whom a protective order or order enforcing a foreign protection order is sought.

SECTION 18. IC 33-19-5-1, AS AMENDED BY HEA 1130-2001, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) For each action that results in a felony conviction under IC 35-50-2 or a misdemeanor conviction under IC 35-50-3, the clerk shall collect from the defendant a criminal costs fee of one hundred twenty dollars (\$120).

(b) In addition to the criminal costs fee collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A marijuana eradication program fee.
- (3) An alcohol and drug services program user fee.
- (4) A law enforcement continuing education program fee.
- (5) A drug abuse, prosecution, interdiction, and correction fee.
- (6) An alcohol and drug countermeasures fee.
- (7) A child abuse prevention fee.
- (8) A domestic violence prevention and treatment fee.
- (9) A highway work zone fee.
- (10) A deferred prosecution fee (IC 33-19-6-16.2).
- (11) A judicial salaries fee (IC 33-19-6-18).
- (12) A document storage fee (IC 33-19-6-18.1).
- (13) An automated record keeping fee (IC 33-19-6-19).
- (14) A late payment fee (IC 33-19-6-20).**
- (15) A sexual assault victims assistance fee (IC 33-19-6-21).**

(c) Instead of the criminal costs fee prescribed by this section, the clerk shall collect a pretrial diversion program fee if an agreement

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between the prosecuting attorney and the accused person entered into under IC 33-14-1-7 requires payment of those fees by the accused person. The pretrial diversion program fee is:

- (1) an initial user's fee of fifty dollars (\$50); and
- (2) a monthly user's fee of ten dollars (\$10) for each month that the person remains in the pretrial diversion program.

(d) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

- (1) The pretrial diversion fee.
- (2) The marijuana eradication program fee.
- (3) The alcohol and drug services program user fee.
- (4) The law enforcement continuing education program fee.

(e) Unless otherwise directed by a court, if a clerk collects only part of a criminal costs fee from a defendant under this section, the clerk shall distribute the partial payment of the criminal costs fee as follows:

- (1) First, the clerk shall apply the partial payment to general court costs.
- (2) Second, if there is money remaining after the partial payment is applied to general court costs under subdivision (1), the clerk shall distribute the partial payment for deposit in the appropriate county user fee fund.
- (3) Third, if there is money remaining after distribution under subdivision (2), the clerk shall distribute the partial payment for deposit in the state user fee fund.
- (4) Fourth, if there is money remaining after distribution under subdivision (3), the clerk shall distribute the partial payment to any other applicable user fee fund.
- (5) Fifth, if there is money remaining after distribution under subdivision (4), the clerk shall apply the partial payment to any outstanding fines owed by the defendant.

SECTION 19. IC 33-19-5-2, AS AMENDED BY HEA 1130-2001, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. (a) Except as provided in subsections (d) and (e), for each action that results in a judgment:

- (1) for a violation constituting an infraction; or
- (2) for a violation of an ordinance of a municipal corporation (as defined in IC 36-1-2-10);

the clerk shall collect from the defendant an infraction or ordinance violation costs fee of seventy dollars (\$70).

(b) In addition to the infraction or ordinance violation costs fee

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collected under this section, the clerk shall collect from the defendant the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) An alcohol and drug services program user fee.
- (3) A law enforcement continuing education program fee.
- (4) An alcohol and drug countermeasures fee.
- (5) A highway work zone fee.
- (6) A deferred prosecution fee (IC 33-19-6-16.2).
- (7) A judicial salaries fee (IC 33-19-6-18).
- (8) A document storage fee (IC 33-19-6-18.1).
- (9) An automated record keeping fee (IC 33-19-6-19).

(10) A late payment fee (IC 33-19-6-20).

(c) The clerk shall transfer to the county auditor or fiscal officer of the municipal corporation the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the user fee fund established under IC 33-19-8:

- (1) The alcohol and drug services program user fee.
- (2) The law enforcement continuing education program fee.
- (3) The deferral program fee.

(d) The defendant is not liable for any ordinance violation costs fee in an action in which:

- (1) the defendant was charged with an ordinance violation subject to IC 33-6-3;
- (2) the defendant denied the violation under IC 33-6-3-2;
- (3) proceedings in court against the defendant were initiated under IC 34-28-5 (or IC 34-4-32 before its repeal); and
- (4) the defendant was tried and the court entered judgment for the defendant for the violation.

(e) Instead of the infraction or ordinance violation costs fee prescribed by subsection (a), the clerk shall collect a deferral program fee if an agreement between a prosecuting attorney or an attorney for a municipal corporation and the person charged with a violation entered into under IC 34-28-5-1 (or IC 34-4-32-1 before its repeal) requires payment of those fees by the person charged with the violation. The deferral program fee is:

- (1) an initial user's fee not to exceed fifty-two dollars (\$52); and
- (2) a monthly user's fee not to exceed ten dollars (\$10) for each month the person remains in the deferral program.

SECTION 20. IC 33-19-5-3, AS AMENDED BY HEA 1130-2001, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 3. (a) For each action filed under:

- (1) IC 31-34 or IC 31-37 (delinquent children and children in

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need of services); or

(2) IC 31-14 (paternity);

the clerk shall collect a juvenile costs fee of one hundred twenty dollars (\$120).

(b) In addition to the juvenile costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

(1) A document fee.

(2) A marijuana eradication program fee.

(3) An alcohol and drug services program user fee.

(4) A law enforcement continuing education program fee.

(5) An alcohol and drug countermeasures fee.

(6) A judicial salaries fee (IC 33-19-6-18).

(7) A document storage fee (IC 33-19-6-18.1).

(8) An automated record keeping fee (IC 33-19-6-19).

(9) A late payment fee (IC 33-19-6-20).

(c) The clerk shall transfer to the county auditor or city or town fiscal officer the following fees, within thirty (30) days after they are collected, for deposit by the auditor or fiscal officer in the appropriate user fee fund established under IC 33-19-8:

(1) The marijuana eradication program fee.

(2) The alcohol and drug services program user fee.

(3) The law enforcement continuing education program fee.

SECTION 21. IC 33-19-5-4, AS AMENDED BY HEA 1130-2001, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) For each civil action except:

(1) proceedings to enforce a statute defining an infraction under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);

(2) proceedings to enforce an ordinance under IC 34-28-5-4 (or IC 34-4-32-4 before its repeal);

(3) proceedings in juvenile court under IC 31-34 or IC 31-37;

(4) proceedings in paternity under IC 31-14;

(5) proceedings in small claims court under IC 33-11.6; and

(6) proceedings in actions under section 6 of this chapter;

the clerk shall collect from the party filing the action a civil costs fee of one hundred dollars (\$100). ~~except as provided in subsection (b):~~

~~(b) For each proceeding for the issuance of a protective order under IC 34-26-2:~~

~~(1) the clerk shall initially collect thirty-five dollars (\$35) of the civil costs fee from the party that filed the action or the court may waive the initial thirty-five dollars (\$35) of the civil costs fee for the party that filed the action; and~~

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(2) upon disposition of the protective order petition under IC 34-26-2, the court may order that:

(A) the remainder of the civil costs fee, in the amount of sixty-five dollars (\$65), be assessed against the respondent in the action as provided in IC 34-26-2-4 or against the party that filed the action; and

(B) the initial thirty-five dollar (\$35) civil costs fee be reimbursed by the respondent in the action to the party that filed the action or assessed against the respondent in the action as provided in IC 34-26-2-4.

(c) (b) In addition to the civil costs fee collected under this section, the clerk shall collect the following fees if they are required under IC 33-19-6:

- (1) A document fee.
- (2) A support and maintenance fee.
- (3) A judicial salaries fee (IC 33-19-6-18).
- (4) A document storage fee (IC 33-19-6-18.1).
- (5) An automated record keeping fee (IC 33-19-6-19).

SECTION 22. IC 33-19-6-1.5, AS AMENDED BY HEA 1130-2001, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1.5. (a) Each clerk shall establish a clerk's record perpetuation fund. The clerk shall deposit in the fund all:

- (1) revenue received by the clerk for the transmitting of documents by facsimile machine to a person under IC 5-14-3; and
- (2) document storage fees required under section 18.1 of this chapter; and
- (3) the late payment fees imposed under section 20 of this chapter that are authorized for deposit in the clerk's record perpetuation fund under IC 33-19-7-1.

(b) The clerk may use any money in the fund for the following purposes:

- (1) The preservation of records.
- (2) The improvement of record keeping systems and equipment.

SECTION 23. IC 33-19-6-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 20. (a) This section applies in each action in which a defendant:

- (1) is found, in a court that has a local court rule imposing a late payment fee under this section, to have:
 - (A) committed a crime;
 - (B) violated a statute defining an infraction;
 - (C) violated an ordinance of a municipal corporation; or



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- (D) committed a delinquent act;
- (2) is required to pay:
 - (A) court costs, including fees;
 - (B) a fine; or
 - (C) a civil penalty;
- (3) is not determined by the court imposing the court costs, fine, or civil penalty to be indigent; and
- (4) fails to pay to the clerk the costs, fine, or civil penalty in full before the later of the following:
 - (A) The end of the business day on which the court enters the conviction or judgment.
 - (B) The end of the period specified in a payment schedule set for the payment of court costs, fines, and civil penalties under rules adopted for the operation of the court.

(b) A court may adopt a local rule to impose a late payment fee under this section on defendants described in subsection (a).

(c) Subject to subsection (d), the clerk of a court that adopts a local rule imposing a late payment fee under this section shall collect a late payment fee of twenty-five dollars (\$25) from a defendant described in subsection (a).

(d) Notwithstanding IC 33-19-2-2, a court may suspend a late payment fee if the court finds that the defendant has demonstrated good cause for failure to make a timely payment of court costs, a fine, or a civil penalty.

SECTION 24. IC 33-19-6-21 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 21. (a) This section applies to criminal actions.

(b) The court shall assess a sexual assault victims assistance fee of at least two hundred fifty dollars (\$250) and not more than one thousand dollars (\$1,000) against an individual convicted in Indiana of any of the following offenses after June 30, 2001:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child exploitation (IC 35-42-4-4(b)).
- (5) Vicarious sexual gratification (IC 35-42-4-5).
- (6) Child solicitation (IC 35-42-4-6).
- (7) Child seduction (IC 35-42-4-7).
- (8) Sexual battery (IC 35-42-4-8).
- (9) Sexual misconduct with a minor as a Class A or Class B felony (IC 35-42-4-9).



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(10) Incest (IC 35-46-1-3).

SECTION 25. IC 33-19-7-1, AS AMENDED BY HEA 1130-2001, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. (a) The clerk of a circuit court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund seventy percent (70%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-3(a) (juvenile costs fees).
- (4) IC 33-19-5-4(a) (civil costs fees).
- (5) IC 33-19-5-5(a) (small claims costs fees).
- (6) IC 33-19-5-6(a) (probate costs fees).
- (7) IC 33-19-6-16.2 (deferred prosecution fees).

(b) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9-2 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) Fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(7).
- (4) One hundred percent (100%) of the domestic violence prevention and treatment fees collected under IC 33-19-5-1(b)(8).
- (5) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- (6) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.
- (7) One hundred percent (100%) of the automated record keeping **fee fees collected under** IC 33-19-6-19.

(c) The clerk of a circuit court shall monthly distribute to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and correction fees collected under IC 33-19-5-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this

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subsection into the county drug free community fund established under IC 5-2-11.

(d) The clerk of a circuit court shall monthly distribute to the county auditor fifty percent (50%) of the child abuse prevention fees collected under IC 33-19-5-1(b)(8). The county auditor shall deposit fees distributed by a clerk under this subsection into the county child advocacy fund established under IC 12-17-17.

(e) The clerk of a circuit court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries ~~fee~~ **fees collected under IC 33-19-6-18.**

(f) The clerk of a circuit court shall monthly distribute to the county auditor one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The county auditor shall deposit fees distributed by a clerk under this subsection as follows:

(1) If directed to do so by an ordinance adopted by the county fiscal body, the county auditor shall deposit forty percent (40%) of the fees in the clerk's record perpetuation fund established under IC 33-19-6-1.5 and sixty percent (60%) of the fees in the county general fund.

(2) If the county fiscal body has not adopted an ordinance under subdivision (1), the county auditor shall deposit all the fees in the county general fund.

(g) The clerk of the circuit court shall semiannually distribute to the auditor of state for deposit in the sexual assault victims assistance fund established under IC 16-19-13-6 one hundred percent (100%) of the sexual assault victims assistance fees collected under IC 33-19-6-21.

SECTION 26. IC 33-19-7-4, AS AMENDED BY HEA 1130-2001, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. (a) The clerk of a city or town court shall semiannually distribute to the auditor of state as the state share for deposit in the state general fund fifty-five percent (55%) of the amount of fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(b) Once each month the city or town fiscal officer shall distribute to the county auditor as the county share twenty percent (20%) of the amount of fees collected under the following:

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- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(c) The city or town fiscal officer shall retain twenty-five percent (25%) as the city or town share of the fees collected under the following:

- (1) IC 33-19-5-1(a) (criminal costs fees).
- (2) IC 33-19-5-2(a) (infraction or ordinance violation costs fees).
- (3) IC 33-19-5-4(a) (civil costs fees).
- (4) IC 33-19-5-5 (small claims costs fees).
- (5) IC 33-19-6-16.2 (deferred prosecution fees).

(d) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state user fee fund established under IC 33-19-9 the following:

- (1) Twenty-five percent (25%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).
- (2) Twenty-five percent (25%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).
- (3) One hundred percent (100%) of the highway work zone fees collected under IC 33-19-5-1(b)(9) and IC 33-19-5-2(b)(5).
- (4) One hundred percent (100%) of the safe schools fee collected under IC 33-19-6-16.3.
- (5) One hundred percent (100%) of the automated record keeping ~~fee~~ **fees collected under** IC 33-19-6-19.

(e) The clerk of a city or town court shall monthly distribute to the county auditor the following:

- (1) Seventy-five percent (75%) of the drug abuse, prosecution, interdiction, and corrections fees collected under IC 33-19-5-1(b)(5).
- (2) Seventy-five percent (75%) of the alcohol and drug countermeasures fees collected under IC 33-19-5-1(b)(6), IC 33-19-5-2(b)(4), and IC 33-19-5-3(b)(5).

The county auditor shall deposit fees distributed by a clerk under this subsection into the county drug free community fund established under IC 5-2-11.

(f) The clerk of a city or town court shall semiannually distribute to the auditor of state for deposit in the state general fund one hundred percent (100%) of the judicial salaries ~~fee~~ **fees collected under**

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IC 33-19-6-18.

(g) The clerk of a city or town court shall distribute monthly to the city or town fiscal officer (as defined in IC 36-1-2-7) one hundred percent (100%) of the late payment fees collected under IC 33-19-6-20. The city or town fiscal officer (as defined in IC 36-1-2-7) shall deposit fees distributed by a clerk under this subsection in the city or town general fund.

SECTION 27. IC 34-6-2-21.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 21.2. "City or town law enforcement agency", for purposes of IC 34-26-2.5-15, means the department or agency of a city or town whose principal function is the apprehension of criminal offenders.**

SECTION 28. IC 34-6-2-48.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 48.5. "Foreign protection order", for purposes of IC 34-26-2.5, means a protection order issued by a tribunal of:**

- (1) another state; or
- (2) an Indian tribe;

regardless of whether the protection order was issued in an independent proceeding or as part of another criminal or civil proceeding.

SECTION 29. IC 34-6-2-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 49. "Governmental entity", for purposes of IC 34-13-2, IC 34-13-3, and IC 34-13-4, and IC 34-26-2.5, means the state or a political subdivision of the state.**

SECTION 30. IC 34-6-2-64 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 64. "In good faith", for purposes of IC 34-13-3 and IC 34-30-15, refers to an act taken:**

- (1) without malice;
- (2) after a reasonable effort to obtain the facts of the matter; and
- (3) in the reasonable belief that the action taken is warranted by the facts known.

SECTION 31. IC 34-6-2-66.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 66.7. "Indian tribe", for purposes of sections 48.5, 71.7, and 121.6 of this chapter and IC 34-26-2.5, means an Indian:**

- (1) tribe;
- (2) band;
- (3) pueblo;



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(4) nation; or

(5) organized group or community, including an Alaska Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.);

that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians.

SECTION 32. IC 34-6-2-71.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 71.7. "Issuing state or Indian tribe", for purposes of IC 34-26-2.5, means the state or Indian tribe whose tribunal issues a protection order.

SECTION 33. IC 34-6-2-73.3 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 73.3. "Law enforcement officer", for purposes of IC 34-26-2.5, has the meaning set forth in IC 35-41-1-17.

SECTION 34. IC 34-6-2-86.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 86.4. "Mutual foreign protection order", for purposes of IC 34-26-2.5, means a foreign protection order that includes provisions in favor of both the protected individual seeking enforcement of the order and the respondent.

SECTION 35. IC 34-6-2-121.4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 121.4. "Protected individual", for purposes of section 86.4 of this chapter and IC 34-26-2.5, means an individual protected by a protection order.

SECTION 36. IC 34-6-2-121.6 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 121.6. (a) "Protection order", for purposes of sections 48.5, 121.4, and 130.7 of this chapter and IC 34-26-2.5, means an injunction or other order, issued by a tribunal of the issuing state or Indian tribe, to prevent an individual from:

- (1) engaging in violent or threatening acts against;
- (2) engaging in harassment of;
- (3) engaging in contact or communication with; or
- (4) being in physical proximity to;

another person, including temporary and final orders issued by civil and criminal courts.

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(b) The term does not include a support or child custody order issued under the dissolution and child custody laws of a state or Indian tribe, except to the extent that the order qualifies as a protective order under subsection (a) and is entitled to full faith and credit under a federal law other than 18 U.S.C. 2265.

(c) The term applies to an order regardless of whether the order is obtained by filing an independent action or as a pendente lite order in another proceeding if any civil order was issued in response to a complaint, petition, or motion filed by or on behalf of a person seeking protection.

SECTION 37. IC 34-6-2-123 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 123. "Public employee", for purposes of IC 34-13-2, IC 34-13-3, **and IC 34-26-2.5**, has the meaning set forth in section 38 of this chapter.

SECTION 38. IC 34-6-2-130.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 130.7. **"Respondent", for purposes of section 86.4 of this chapter and IC 34-26-2.5, means the individual against whom the enforcement of a protection order is sought.**

SECTION 39. IC 34-6-2-138 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 138. "Sheriff":

(1) for purposes of IC 34-26-2.5, refers to the county sheriff; and

(2) for purposes of IC 34-47-4, means the sheriff of the county in which a court issues a writ of attachment under IC 34-47-4 (or IC 34-4-9 before its repeal).

SECTION 40. IC 34-6-2-140 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 140. "State":

(1) for purposes of IC 34-13-3 means Indiana and its state agencies; and

(2) for purposes of sections 48.5 and 71.7 of this chapter and IC 34-26-2.5, has the meaning set forth in IC 1-1-4-5.

SECTION 41. IC 34-6-2-144.2 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 144.2. **"Tribunal", for purposes of sections 48.5 and 121.6 of this chapter and IC 34-26-2.5, means a court, agency, or other entity authorized by law to issue or modify a protection order.**

SECTION 42. IC 34-13-3-3, AS AMENDED BY P.L.142-1999, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE

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JULY 1, 2001]: Sec. 3. A governmental entity or an employee acting within the scope of the employee's employment is not liable if a loss results from:

- (1) the natural condition of unimproved property;
- (2) the condition of a reservoir, dam, canal, conduit, drain, or similar structure when used by a person for a purpose that is not foreseeable;
- (3) the temporary condition of a public thoroughfare that results from weather;
- (4) the condition of an unpaved road, trail, or footpath, the purpose of which is to provide access to a recreation or scenic area;
- (5) the initiation of a judicial or an administrative proceeding;
- (6) the performance of a discretionary function; however, the provision of medical or optical care as provided in IC 34-6-2-38 shall be considered as a ministerial act;
- (7) the adoption and enforcement of or failure to adopt or enforce a law (including rules and regulations), unless the act of enforcement constitutes false arrest or false imprisonment;
- (8) an act or omission performed in good faith and without malice under the apparent authority of a statute which is invalid if the employee would not have been liable had the statute been valid;
- (9) the act or omission of anyone other than the governmental entity or the governmental entity's employee;
- (10) the issuance, denial, suspension, or revocation of, or failure or refusal to issue, deny, suspend, or revoke, any permit, license, certificate, approval, order, or similar authorization, where the authority is discretionary under the law;
- (11) failure to make an inspection, or making an inadequate or negligent inspection, of any property, other than the property of a governmental entity, to determine whether the property complied with or violates any law or contains a hazard to health or safety;
- (12) entry upon any property where the entry is expressly or impliedly authorized by law;
- (13) misrepresentation if unintentional;
- (14) theft by another person of money in the employee's official custody, unless the loss was sustained because of the employee's own negligent or wrongful act or omission;
- (15) injury to the property of a person under the jurisdiction and control of the department of correction if the person has not exhausted the administrative remedies and procedures provided

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by section 7 of this chapter;

(16) injury to the person or property of a person under supervision of a governmental entity and who is:

(A) on probation; or

(B) assigned to an alcohol and drug services program under IC 12-23, a minimum security release program under IC 11-10-8, or a community corrections program under IC 11-12;

(17) design of a highway (as defined in IC 9-13-2-73) if the claimed loss occurs at least twenty (20) years after the public highway was designed or substantially redesigned; except that this subdivision shall not be construed to relieve a responsible governmental entity from the continuing duty to provide and maintain public highways in a reasonably safe condition;

(18) development, adoption, implementation, operation, maintenance, or use of an enhanced emergency communication system;

(19) injury to a student or a student's property by an employee of a school corporation if the employee is acting reasonably under a discipline policy adopted under IC 20-8.1-5.1-7(b); ~~or~~

(20) an error resulting from or caused by a failure to recognize the year 1999, 2000, or a subsequent year, including an incorrect date or incorrect mechanical or electronic interpretation of a date, that is produced, calculated, or generated by:

(A) a computer;

(B) an information system; or

(C) equipment using microchips;

that is owned or operated by a governmental entity. However, this subdivision does not apply to acts or omissions amounting to gross negligence, willful or wanton misconduct, or intentional misconduct. For purposes of this subdivision, evidence of gross negligence may be established by a party by showing failure of a governmental entity to undertake an effort to review, analyze, remediate, and test its electronic information systems or by showing failure of a governmental entity to abate, upon notice, an electronic information system error that caused damage or loss;
or

(21) an act or omission performed in good faith under the apparent authority of a court order described in IC 35-46-1-15.1 that is invalid, including an arrest or imprisonment related to the enforcement of the court order, if the governmental entity or employee would not have been

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liable had the court order been valid.

However, subdivision (20) expires on June 30, 2003.

SECTION 43. IC 34-26-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 1. A person may petition any court of record for a protective order on behalf of that person, **an employee of the petitioner**, or a member of the petitioner's household.

SECTION 44. IC 34-26-2-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 2. The **nonconfidential** petition:

- (1) must include the name of the petitioner and the name and address (if known) of the respondent;
- (2) must include any allegation concerning the date or manner of specific acts or feared acts of abuse, harassment, or disruption of the peace of the petitioner or members of the petitioner's household or any allegations concerning specific damage to or the fear of damage to any property of the petitioner;
- (3) must include a request that, if the court grants the protective order, the court shall order the respondent:
 - (A) to refrain from abusing, harassing, or disturbing the peace of the petitioner, by either direct or indirect contact;
 - (B) to refrain from abusing, harassing, or disturbing the peace of a member of the petitioner's household, by either direct or indirect contact;
 - (C) to refrain from entering the property of the petitioner, jointly owned or leased property of the petitioner and respondent if the respondent is not the sole owner or lessee, or any other property as specifically described in the petition;
 - (D) to refrain from damaging any property of the petitioner;
 - (E) if the petitioner and respondent are married and if a proceeding for dissolution of marriage or legal separation is not pending:
 - (i) to be evicted from the dwelling of the petitioner if the respondent is not the sole owner or lessee of the petitioner's dwelling;
 - (ii) to not transfer, encumber, damage, conceal, or otherwise dispose of property jointly owned with the petitioner or that is an asset of the marriage;
 - (iii) to pay child support to the custodian of any minor children of the parties alone or with the other party;
 - (iv) to pay maintenance to the other party; or
 - (v) to perform a combination of acts listed in items (i)

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through (iv);

- (4) must be sworn to by the petitioner;
- (5) must include a request that the court set a date for a protective order hearing under this chapter;
- (6) must be accompanied by a **uniform statewide** confidential form concerning protective orders prescribed ~~or approved~~ by the division of state court administration **that has been completed by the petitioner or the person on whose behalf the petition is filed;** and
- (7) may include a request that the court order counseling or other social services, including domestic violence education, for the petitioner, the respondent, or both.

SECTION 45. IC 34-26-2-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 4. **(a) The court:**

- (1) shall order the clerk of the court to waive any filing fees required for a proceeding under this chapter if IC 33-19-4.5 applies; and**
- (2) may order filing fees to be paid by the respondent after a hearing held under this chapter.**

(b) The court may:

- (1) order the clerk of the court to waive any filing fees required **for a proceeding** under this chapter if the petitioner demonstrates by affidavit that the petitioner is unable to pay the fees due to all relevant circumstances; and
- (2) order filing fees to be paid by the respondent after a hearing held under this chapter.

SECTION 46. IC 34-26-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 8. When a court issues an emergency protective order under section 5 of this chapter that directs the respondent to refrain from the acts described in section 6(1), 6(2), or 6(3) of this chapter:

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the petitioner shall file a **completed copy of the uniform statewide** confidential form prescribed ~~or approved~~ by the division of state court administration with the clerk.

SECTION 47. IC 34-26-2-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 11. (a) When a petition is filed, the clerk shall issue a summons to appear at a hearing to the respondent that:

- (1) gives notice of the date, time, and place of the hearing; and
- (2) informs the respondent that the respondent must appear before the court to answer the petition.



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(b) The clerk shall serve the respondent with:

- (1) the summons to appear; **and**
- (2) **a copy of the petition;**

in accordance with Rule 4.1 of the Rules of Trial Procedure.

(c) Before providing a respondent with a copy of the petition, the clerk shall separate the uniform statewide confidential form completed by the petitioner or the person on whose behalf the petition is filed from the petition.

(d) The division of state court administration shall prescribe a single uniform confidential form to be used in all courts under this chapter.

SECTION 48. IC 34-26-2-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 16. When a court issues a protective order under section 12(1)(A), 12(1)(B), or 12(1)(C) of this chapter or an emergency protective order under section 5 of this chapter:

- (1) the clerk of the court shall comply with IC 5-2-9; and
- (2) the petitioner shall file a **completed copy of the uniform statewide** confidential form prescribed ~~or approved~~ by the division of state court administration with the clerk.

SECTION 49. IC 34-26-2-18 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 18. If a respondent is ordered to stay away from a petitioner, an invitation by a petitioner to a petitioner's residence or other place where a petitioner is located, does not waive or nullify any relief provided by the court in the order of protection.**

SECTION 50. IC 34-26-2.5 IS ADDED TO THE INDIANA CODE AS A NEW CHAPTER TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]:

Chapter 2.5. Enforcement of Foreign Protection Orders

Sec. 1. This chapter applies to a foreign protection order issued by a tribunal of the following:

- (1) Another state.
- (2) An Indian tribe.

Sec. 2. A valid foreign protection order shall be accorded full faith and credit by the courts in Indiana. A court in Indiana may not enforce a foreign protection order issued by a tribunal of an issuing state or Indian tribe if the issuing state or Indian tribe does not recognize the standing of a protected individual to seek enforcement of the order.

Sec. 3. A person authorized by Indiana law to seek enforcement

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of a protection order may seek enforcement of a valid foreign protection order in a circuit, superior, or probate court in Indiana.

Sec. 4. A circuit, superior, or probate court shall enforce the protection order provisions of an order issued by a tribunal, regardless of whether the order was obtained in an independent proceeding or as part of another proceeding. In a proceeding to enforce a foreign protection order, the circuit, superior, or probate court shall follow Indiana procedures for the enforcement of protection orders.

Sec. 5. A foreign protection order is valid if it:

- (1) identifies the protected individual and the respondent;
- (2) is currently in effect;
- (3) was issued by a tribunal that had jurisdiction over the parties and subject matter under the law of the issuing state or Indian tribe; and
- (4) either:
 - (A) was issued after the respondent was given reasonable notice and had an opportunity to be heard before the tribunal issued the order; or
 - (B) was issued in the case of an order ex parte, and the respondent was given notice and had an opportunity to be heard within a reasonable time after the order was issued, consistent with the rights of the respondent to due process.

Sec. 6. A foreign protection order valid on its face is prima facie evidence of its validity.

Sec. 7. The absence of any of the criteria for validity of a foreign protection order is an affirmative defense in an action seeking enforcement of the order or charging a person with a crime for violation of the foreign protection order.

Sec. 8. A circuit, superior, or probate court in Indiana may enforce mutual foreign protection order provisions of an order of an issuing state or Indian tribe that favor a respondent only if:

- (1) the respondent files a written pleading seeking a protection order from the tribunal of the issuing state or Indian tribe; and
- (2) the tribunal of the issuing state or Indian tribe makes specific findings in favor of the respondent.

Sec. 9. If IC 33-19-4.5 applies to the protected individual, costs or fees may not be imposed against a protected individual in a proceeding commenced to enforce a foreign protection order.

Sec. 10. (a) A law enforcement officer, upon determining that:

- (1) there is probable cause to believe that a valid foreign

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protection order exists; and

(2) the order has been violated;

shall enforce the order as if it were the order of an Indiana court. The presentation of a foreign protection order that identifies both the protected individual and the respondent and, on its face, is currently in effect constitutes probable cause to believe that a valid foreign protection order exists. For purposes of this section, the protection order may be inscribed on a tangible medium or may have been stored in an electronic or other medium if it is retrievable in perceivable form. Presentation of a certified copy of a protection order is not required for enforcement.

(b) If a foreign protection order is not presented, an Indiana law enforcement officer may consider other information in determining whether there is probable cause to believe that a valid foreign protection order exists, including information from the National Crime Information Center (NCIC) protection order file, Indiana data and communication system (IDACS) under IC 5-2-5, or a depository established under IC 5-2-9-5.

(c) If an Indiana law enforcement officer determines that an otherwise valid foreign protection order cannot be enforced because the respondent has not been notified or served with the order, the officer shall:

- (1) inform the respondent of the order;
- (2) make a reasonable effort to serve the order upon the respondent; and
- (3) allow the respondent a reasonable opportunity to comply with the order before enforcing the order.

(d) Registration or filing of a foreign protection order in Indiana or in the National Crime Information Center (NCIC) protection order file is not required for the enforcement of a valid foreign protection order. The commencement of an action under section 3 of this chapter is not required for the enforcement of a valid foreign protection order.

Sec. 11. Any individual may register a valid foreign protection order in Indiana. To register a foreign protection order, an individual must present the information required under section 12 of this chapter to a county clerk in the judicial district where the protected person resides.

Sec. 12. A county clerk shall accept a foreign protection order for registration upon presentation of the following:

- (1) A certified copy of a foreign protection order.
- (2) A completed uniform statewide form prescribed by the

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division of state court administration for the registration of foreign protection orders that includes a format for the protected individual to provide a statement under affirmation that, to the best of the protected individual's knowledge, the order is currently in effect.

Registration, including the preparation of necessary copies, shall be without fee or cost.

Sec. 13. The county clerk may not notify the party against whom the order has been made that a foreign protection order has been registered.

Sec. 14. If the foreign protection order appears to be valid on its face, the county clerk shall:

- (1) comply with IC 5-2-9-6.3; and
- (2) return to the petitioner a copy of the foreign protection order bearing proof of filing with the county clerk.

Sec. 15. Upon receipt of a copy of a foreign protection order under section 14 of this chapter, a city or town law enforcement agency or sheriff shall comply with IC 5-2-5-12 and IC 5-2-9-6.3.

Sec. 16. (a) If a foreign protection order filed with a county clerk under section 11 of this chapter is terminated or expires, the person who obtained the foreign protection order must:

- (1) file a notice of termination on a form prescribed or approved by the division of state court administration; and
- (2) file a copy of the order terminating the foreign protection order, if terminated by an order other than the foreign protection order;

with the county clerk in Indiana with whom the foreign protection order was filed.

(b) If a foreign protection order filed with a county clerk under section 11 of this chapter is extended or modified, the person who obtained the extension or modification must file:

- (1) a notice of extension or modification on a form prescribed or approved by the division of state court administration; and
- (2) a certified copy of the order extending or modifying the foreign protection order;

with the county clerk in Indiana with whom the foreign protection order was filed.

Sec. 17. A county clerk shall:

- (1) accept a notice and order filed under section 16 of this chapter from a protected individual without charge; and
- (2) comply with IC 5-2-9-6.3.

Sec. 18. A county clerk shall provide a protected person with

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uniform statewide forms:

(1) prescribed by the division of state court administration;
and

(2) required under section 12 or 16 of this chapter;
without charge.

Sec. 19. A circuit, superior, or probate court in Indiana may not enforce under this chapter a provision of a foreign protection order with respect to support. A provision concerning support may be enforced under IC 31-18.

Sec. 20. A circuit, superior, or probate court in Indiana may not enforce under this chapter a provision of a foreign protection order with respect to custody. A provision concerning custody may be enforced under IC 31-17-3.

Sec. 21. The provisions of IC 34-13-3-3 apply to an act or omission by a governmental entity or public employee arising out of the:

(1) registration or enforcement of a foreign protection order;
or

(2) detention or arrest of an alleged violator of a foreign protection order.

Sec. 22. A protected individual who pursues remedies under this chapter may pursue other legal or equitable remedies against the respondent.

SECTION 51. IC 35-38-1-7.1, AS AMENDED BY HEA 1892-2001, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 7.1. (a) In determining what sentence to impose for a crime, the court shall consider:

(1) the risk that the person will commit another crime;
(2) the nature and circumstances of the crime committed;
(3) the person's:

(A) prior criminal record;
(B) character; and
(C) condition;

(4) whether the victim of the crime was less than twelve (12) years of age or at least sixty-five (65) years of age;

(5) whether the person committed the offense in the presence or within hearing of a person who is less than eighteen (18) years of age who was not the victim of the offense;

(6) whether the person violated a protective order issued against the person under IC 31-15 or IC 31-16 (or IC 31-1-11.5 before its repeal) or IC 34-26-2 (or IC 34-4-5.1 before its repeal); and

~~(6)~~ **(7) any oral or written statement made by a victim of the**

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crime.

(b) The court may consider the following factors as aggravating circumstances or as favoring imposing consecutive terms of imprisonment:

- (1) The person has recently violated the conditions of any probation, parole, or pardon granted to the person.
- (2) The person has a history of criminal or delinquent activity.
- (3) The person is in need of correctional or rehabilitative treatment that can best be provided by commitment of the person to a penal facility.
- (4) Imposition of a reduced sentence or suspension of the sentence and imposition of probation would depreciate the seriousness of the crime.
- (5) The victim of the crime was less than twelve (12) years of age or at least sixty-five (65) years of age.
- (6) The victim of the crime was mentally or physically infirm.
- (7) The person committed a forcible felony while wearing a garment designed to resist the penetration of a bullet.
- (8) The person committed a sex crime listed in subsection (e) and:
 - (A) the crime created an epidemiologically demonstrated risk of transmission of the human immunodeficiency virus (HIV) and involved the sex organ of one (1) person and the mouth, anus, or sex organ of another person;
 - (B) the person had knowledge that the person was a carrier of HIV; and
 - (C) the person had received risk counseling as described in subsection (g).
- (9) The person committed an offense related to controlled substances listed in subsection (f) if:
 - (A) the offense involved:
 - (i) the delivery by any person to another person; or
 - (ii) the use by any person on another person;
 of a contaminated sharp (as defined in IC 16-41-16-2) or other paraphernalia that creates an epidemiologically demonstrated risk of transmission of HIV by involving percutaneous contact;
 - (B) the person had knowledge that the person was a carrier of the human immunodeficiency virus (HIV); and
 - (C) the person had received risk counseling as described in subsection (g).
- (10) The person committed the offense in an area of a consolidated or second class city that is designated as a public safety improvement area by the Indiana criminal justice institute

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under IC 36-8-19.5.

(11) The injury to or death of the victim of the crime was the result of shaken baby syndrome (as defined in IC 16-41-40-2).

(12) Before the commission of the crime, the person administered to the victim of the crime, without the victim's knowledge, a sedating drug or a drug that had a hypnotic effect on the victim, or the person had knowledge that such a drug had been administered to the victim without the victim's knowledge.

(13) The person:

(A) committed trafficking with an inmate under IC 35-44-3-9; and

(B) is an employee of the penal facility.

(14) The person committed the offense in the presence or within hearing of a person who is less than eighteen (18) years of age who was not the victim of the offense.

(c) The court may consider the following factors as mitigating circumstances or as favoring suspending the sentence and imposing probation:

(1) The crime neither caused nor threatened serious harm to persons or property, or the person did not contemplate that it would do so.

(2) The crime was the result of circumstances unlikely to recur.

(3) The victim of the crime induced or facilitated the offense.

(4) There are substantial grounds tending to excuse or justify the crime, though failing to establish a defense.

(5) The person acted under strong provocation.

(6) The person has no history of delinquency or criminal activity, or the person has led a law-abiding life for a substantial period before commission of the crime.

(7) The person is likely to respond affirmatively to probation or short term imprisonment.

(8) The character and attitudes of the person indicate that the person is unlikely to commit another crime.

(9) The person has made or will make restitution to the victim of the crime for the injury, damage, or loss sustained.

(10) Imprisonment of the person will result in undue hardship to the person or the dependents of the person.

(11) The person was convicted of a crime involving the use of force against a person who had repeatedly inflicted physical or sexual abuse upon the convicted person and evidence shows that the convicted person suffered from the effects of battery as a result of the past course of conduct of the individual who is the

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victim of the crime for which the person was convicted.

(d) The criteria listed in subsections (b) and (c) do not limit the matters that the court may consider in determining the sentence.

(e) For the purposes of this article, the following crimes are considered sex crimes:

- (1) Rape (IC 35-42-4-1).
- (2) Criminal deviate conduct (IC 35-42-4-2).
- (3) Child molesting (IC 35-42-4-3).
- (4) Child seduction (IC 35-42-4-7).
- (5) Prostitution (IC 35-45-4-2).
- (6) Patronizing a prostitute (IC 35-45-4-3).
- (7) Incest (IC 35-46-1-3).
- (8) Sexual misconduct with a minor under IC 35-42-4-9(a).

(f) For the purposes of this article, the following crimes are considered offenses related to controlled substances:

- (1) Dealing in or manufacturing cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-1).
- (2) Dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2).
- (3) Dealing in a schedule IV controlled substance (IC 35-48-4-3).
- (4) Dealing in a schedule V controlled substance (IC 35-48-4-4).
- (5) Possession of cocaine, a narcotic drug, or methamphetamine (IC 35-48-4-6).
- (6) Possession of a controlled substance (IC 35-48-4-7).
- (7) Dealing in paraphernalia (IC 35-48-4-8.5).
- (8) Possession of paraphernalia (IC 35-48-4-8.3).
- (9) Offenses relating to registration (IC 35-48-4-14).

(g) For the purposes of this section, a person received risk counseling if the person had been:

- (1) notified in person or in writing that tests have confirmed the presence of antibodies to the human immunodeficiency virus (HIV) in the person's blood; and
- (2) warned of the behavior that can transmit HIV.

SECTION 52. IC 35-45-10-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 5. (a) A person who stalks another person commits stalking, a Class D felony.

(b) The offense is a Class C felony if at least one (1) of the following applies:

- (1) A person:
 - (A) stalks a victim; and
 - (B) makes an explicit or an implicit threat with the intent to place the victim in reasonable fear of:

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- (i) sexual battery (as defined in IC 35-42-4-8);
- (ii) serious bodily injury; or
- (iii) death.

(2) A protective order or other judicial order under any of the following statutes has been issued by the court to protect the same victim or victims from the person and the person has been given actual notice of the order:

- (A) IC 31-15, IC 31-16, IC 31-17, or IC 31-1-11.5 before its repeal (dissolution of marriage, legal separation, child support, and child custody).
- (B) IC 31-34, IC 31-37, or IC 31-6-4 before its repeal (delinquent children and children in need of services).
- (C) IC 31-32 or IC 31-6-7 before its repeal (procedure in juvenile court).
- (D) IC 34-26-2 or IC 34-4-5.1 before its repeal (protective order to prevent abuse).

(3) The person's stalking of another person violates an order issued as a condition of pretrial release, including release on bail or personal recognizance, or pretrial diversion that orders the person to refrain from any direct or indirect contact with another person if the person has been given actual notice of the order.

(4) The person's stalking of another person violates an order issued as a condition of probation that orders the person to refrain from any direct or indirect contact with another person if the person has been given actual notice of the order.

(5) The person's stalking of another person violates a protective order issued under IC 31-14-16 in a paternity action if the person has been given actual notice of the order.

(6) The person's stalking of another person violates an order issued in another state that is substantially similar to an order described in subdivisions (2) through (5) if the person has been given actual notice of the order.

(7) The person's stalking of another person violates an order that is substantially similar to an order described in subdivisions (2) through (5) and is issued by an Indian:

- (A) tribe;**
- (B) band;**
- (C) pueblo;**
- (D) nation; or**
- (E) organized group or community, including an Alaska Native village or regional or village corporation as**

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defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians if the person has been given actual notice of the order.

~~(7)~~ (8) A criminal complaint of stalking that concerns an act by the person against the same victim or victims is pending in a court and the person has been given actual notice of the complaint.

(c) The offense is a Class B felony if:

(1) the act or acts were committed while the person was armed with a deadly weapon; or

(2) the person has an unrelated conviction for an offense under this section against the same victim or victims.

(d) Notwithstanding subsection (a), the court may enter judgment of conviction of a Class A misdemeanor and sentence accordingly if the court finds mitigating circumstances. The court may consider the mitigating circumstances in IC 35-38-1-7.1(C) in making a determination under this subsection. However, the criteria listed in IC 35-38-1-7.1(C) do not limit the matters the court may consider in making its determination.

(e) Notwithstanding subsection (b), the court may enter judgment of conviction of a Class D felony and sentence accordingly if the court finds mitigating circumstances. The court may consider the mitigating circumstances in IC 35-38-1-7.1(C) in making a determination under this subsection. However, the criteria listed in IC 35-38-1-7.1(C) do not limit the matters the court may consider in making its determination.

SECTION 53. IC 35-46-1-15.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: Sec. 15.1. (a) A person who knowingly or intentionally violates:

(1) a protective order issued under:

(A) IC 34-26-2-12(1)(A) (or IC 34-4-5.1-5(a)(1)(A) before its repeal);

(B) IC 34-26-2-12(1)(B) (or IC 34-4-5.1-5(a)(1)(B) before its repeal); or

(C) IC 34-26-2-12(1)(C) (or IC 34-4-5.1-5(a)(1)(C) before its repeal);

that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(2) an emergency protective order issued under IC 34-26-2-6(1), IC 34-26-2-6(2), IC 34-26-2-6(3), (or IC 34-4-5.1-2.3(a)(1)(A), IC 34-4-5.1-2.3(a)(1)(B), or IC 34-4-5.1-2.3(a)(1)(C) before their

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repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(3) a temporary restraining order issued under IC 31-15-4-3(2) **or** IC 31-15-4-3(3) ~~IC 31-16-4-2(a)(2), or IC 31-16-4-2(a)(3)~~ (or IC 31-1-11.5-7(b)(2), ~~or~~ IC 31-1-11.5-7(b)(3), **IC 31-16-42(a)(2), or IC 31-16-42(a)(3)** before their repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(4) an order in a dispositional decree issued under IC 31-34-20-1, IC 31-37-19-1, or IC 31-37-19-5 (or IC 31-6-4-15.4 or IC 31-6-4-15.9 before their repeal) or an order issued under IC 31-32-13 (or IC 31-6-7-14 before its repeal) that orders the person to refrain from direct or indirect contact with a child in need of services or a delinquent child;

(5) an order issued as a condition of pretrial release, **including release on bail or personal recognizance**, or pretrial diversion that orders the person to refrain from any direct or indirect contact with another person;

(6) an order issued as a condition of probation that orders the person to refrain from any direct or indirect contact with another person;

(7) a protective order issued under IC 31-15-5 ~~or IC 31-16-5~~ (or **IC 31-16-5** or IC 31-1-11.5-8.2 before ~~its~~ **their** repeal) that orders the respondent to refrain from abusing, harassing, or disturbing the peace of the petitioner;

(8) a protective order issued under IC 31-14-16 in a paternity action;

(9) a protective order issued under IC 31-34-17 in a child in need of services proceeding or under IC 31-37-16 in a juvenile delinquency proceeding that orders the respondent to refrain from having direct or indirect contact with a child; ~~or~~

(10) an order issued in ~~a another~~ state ~~other than Indiana~~ that is substantially similar to an order described in subdivisions (1) through (9); **or**

(11) an order that is substantially similar to an order described in subdivisions (1) through (9) and is issued by an Indian:

(A) tribe;

(B) band;

(C) pueblo;

(D) nation; or

(E) organized group or community, including an Alaska

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Native village or regional or village corporation as defined in or established under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.); that is recognized as eligible for the special programs and services provided by the United States to Indians because of their special status as Indians;

commits invasion of privacy, a Class B misdemeanor. However, the offense is a Class A misdemeanor if the person has a prior unrelated conviction for an offense under this section.

(b) In addition to any other penalty imposed for conviction of a Class A misdemeanor under this section, if the violation of the protective order results in bodily injury to the petitioner, the court shall order the defendant to be imprisoned for five (5) days. A five (5) day sentence under this subsection may not be suspended. The court may require the defendant to serve the five (5) day term of imprisonment in an appropriate facility at whatever time or intervals, consecutive or intermittent, the court determines to be appropriate. However:

- (1) at least forty-eight (48) hours of the sentence must be served consecutively; and
- (2) the entire five (5) day sentence must be served within six (6) months after the date of sentencing.

(c) Notwithstanding IC 35-50-6, a person does not earn credit time while serving a five (5) day sentence under subsection (b).

SECTION 54. IC 35-46-1-20 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2001]: **Sec. 20. A law enforcement officer shall enforce a foreign protection order (as defined in IC 34-6-2-48.5) in conformity with the procedures in IC 34-26-2.5-10.**

SECTION 55. IC 34-26-2-15 IS REPEALED [EFFECTIVE JULY 1, 2001].

SECTION 56. [EFFECTIVE JULY 1, 2001] (a) IC 5-2-5 and IC 5-2-9, both as amended by this act, and IC 34-26-2.5, as added by this act, apply to foreign protection orders issued before, on, or after July 1, 2001.

(b) IC 34-13-3-3, as amended by this act, applies only to a cause of action that accrues after June 30, 2001.

SECTION 57. [EFFECTIVE JULY 1, 2001] (a) Notwithstanding IC 5-2-5-12(a)(5), the state police department has until January 1, 2002, to modify its computer system to allow for the entry of foreign protection orders into the Indiana data and communication system (IDACS).

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(b) This SECTION expires July 1, 2002.

SECTION 58. [EFFECTIVE JULY 1, 2001] (a) IC 33-19-4.5, as added by this act, and the amendments to IC 33-19-5-4 and IC 34-26-2-4 apply only to proceedings commenced after the effective date of this SECTION.

(b) IC 35-38-1-7.1, as amended by this act, applies to all convictions for a crime entered after the effective date of this SECTION.

(c) IC 35-45-10-5 and IC 35-46-1-15.1, both as amended by this act, apply only to offenses committed after the effective date of this SECTION.

SECTION 59. [EFFECTIVE UPON PASSAGE] The division of state court administration shall:

- (1) prescribe any forms or form changes needed to implement IC 33-19-4.5, as added by this act;**
- (2) prescribe any forms or form changes needed to implement IC 34-26-2-11;**
- (3) prescribe forms needed to implement IC 34-26-2.5; and**
- (4) make the forms or make information concerning the format available to county clerks;**

before July 1, 2001. Forms prescribed under subdivision (2) must be designed with a format that allows for the separation of confidential information concerning the petitioner from information that a respondent needs to prepare a defense to the allegations raised by the petition.

SECTION 60. An emergency is declared for this act.

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President of the Senate

President Pro Tempore

Speaker of the House of Representatives

Approved: _____

Governor of the State of Indiana

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